

## REMARKS

The foregoing amendments to the claims are intended to place the subject application in condition for allowance. Specifically, Claims 1, 16, 29 and 38 were amended, and Claims 2 and 41 were cancelled. It is noted that amended Claims 1, 29 and 38 are all independent claims, and that Claim 16 was only amended to change its dependency from now cancelled Claim 2 to Claim 1. In view of these amendments and the following reasoning for allowance, the applicants hereby respectfully request further examination and reconsideration of the subject application.

### **1. Interview Summary**

The applicants filed an Applicant Initiated Interview Request Form PTOL-413A along with an agenda on May 4, 2008. A telephonic interview meeting was subsequently held on May 5, 2008 between the undersigned and Examiner G. Gauthier's during which the amendments to independent Claims 1, 29 and 38 shown above were discussed. It was indicated by the Examiner that the amendments would overcome the 35 USC §102(e) rejections of these claims.

### **2. Rejection of Claims 38-40 Under 35 USC §101**

Claims 38-40 were rejected under 35 USC §101 as allegedly being directed to non-statutory subject matter. More particularly, it was stated that the disclosed meaning of what the claimed computer readable medium may consist of, includes a modulated signal.

While the applicants do not admit to and do not believe that the aforementioned computer-readable medium is non-statutory subject matter, the aforementioned claims have been amended to preclude an interpretation that they are directed to a signal. Specifically, the claims were changed to recite a "computer-readable **storage** medium having computer-executable instructions **stored thereon...**". It is believed this change

limits the claims to what the USPTO currently considers to be statutory subject matter.

In view of the aforementioned amendments, it is believed Claims 38-40 are patentable under 35 USC §101. Therefore, it is respectfully requested that the rejection of these claim be reconsidered.

### **3. Rejection of Claims 1-41 Under 35 USC §102(e)**

The aforementioned Office Action rejected Claims 1-41 of the subject application under 35 USC §102(e) as being anticipated by Nelson (U.S. Patent No. 6,823,184). The Examiner contended that Nelson teaches each and every element of these claims. The applicants have amended these claims to overcome this contention of anticipation.

The applicants now claim “display[ing] a menu listing a plurality of potential responses on the display of the communication device...**display[ing] at least one additional menu on the display of the communication device upon selection of a response from a currently displayed menu, which together with the original menu form a hierarchy of menus used to construct a complete statement** when selected responses from each menu displayed are played back in the sequence they were selected...**upon selection of two or more responses used to construct said complete statement** ...access[ing] pre-recorded voice snippets corresponding to the selected responses, and transmit[ing] a playback of the accessed voice snippets to the remote party over the communication link” (see Claims 1-37). The applicants also now claim “displaying a menu listing a plurality of potential responses on the display of the communication device...**displaying at least one additional menu on the display of the communication device upon selection of a response from a currently displayed menu, which together with the original menu form a hierarchy of menus used to construct a complete statement** when selected responses from each menu displayed are played back in the sequence they were selected...**upon selection of two or more responses used to construct said complete statement**...accessing a pre-recorded voice snippet or snippets corresponding to the selected response or responses, and transmitting a playback of the accessed

**voice snippet or snippets to the remote party over the communication link”** (see Claim 38-40). The foregoing will for the purposes of this argument be referred to as the claimed statement construction feature. Nelson does not teach this feature.

Granted, the Examiner contends in the Office Action that Nelson teaches the statement construction feature at Col. 7, lines 30-47. This portion of the Nelson reference reads:

“A user views a conversation representation as illustrated by block 35 in FIG. 3, and makes selections about utterances which are to be voiced over the telephone. In an embodiment, **conversation representation 31 may be icons having text labels** as illustrated in FIG. 7. **A Conversation Element 33a associated with conversation representation 31 is stored in an utterance data store 33, that when selected are retrieved and submitted to an audio generator 34 to produce the output signals needed for the telephone connection.** An audio-to-phone connector 35 provides this electrical connection. A telephone-to-user connector 30 allows the user to hear both the conversation generated by the system and other users. In an embodiment, a telephone-to-user connector is an earpiece. A switchable (switch 37) audio input 36 allows a user to voice directly into a telephone when appropriate. A stored data extractor 32 converts data stored in other formats (e.g., PC calendar entries, address books) into a format suitable for audio generation”.

*(emphasis added)*

Clearly, Nelson is teaching a scheme where audio is generated and transmitted for each selection made by a user. This is not the claimed statement construction feature that has the advantage of allowing a user to build statements using a set of hierarchical menus. When such a statement is built, only then are the multiple selected responses (two or more) forming the statement accessed and transmitted as audio.

Further, in regard to Claims 26 and 27, the applicants respectively claim “accessing a pre-recorded voice snippet in a language other than that of the text of the response as displayed” and “wherein a plurality of pre-recorded voice snippets corresponding to a selected response are available, each of which is in a different language, and wherein the user can select the language of the voice snippet that is accessed prior to selecting the response”. The foregoing will for the purposes of this argument be referred to as the claimed different language feature. Nelson also does not teach this feature.

Granted, the Examiner contends in the Office Action that Nelson teaches the different language feature at Col. 8, lines 36-50. This portion of the Nelson reference reads:

“Each conversational element (i.e., phrases, words, letters, numbers, symbols, sound effects, and sequences and/or combinations of the above) has one or more internal representations suitable for creation of audible utterances that may be communicated over a telephone line. Conversational element 33a stored in utterance data store 33 includes, for example, sound file formats, record and playback formats, text, MIDI sequences, etc. These internal representations may be stored in and retrieved from utterance data store 33. In an embodiment, utterance data store 33 is readable and writeable computer memory as known in the art. Retrieval may be accessed randomly, sequentially, by query, or through other such known methods. Data for retrieved conversation elements are passed to an audio generator 34”.

Nothing in this excerpt from Nelson, or anywhere else in this reference, even suggests the claimed “accessing a pre-recorded voice snippet in a language other than that of the text of the response as displayed”.

A *prima facie* case of anticipation is established only when the Examiner can

show that the cited reference teaches each of the claimed elements of a rejected claim. In this case, based on the remarks presented above, the Examiner has not shown that the Nelson reference teaches the aforementioned claimed statement construction or different language features. Thus, the rejected claims recite features that are not taught in the cited art, and as such, a *prima facie* case of anticipation cannot be established. Accordingly, it is respectfully requested that the rejection of remaining Claims 1-40 be reconsidered based on the following exemplary novel claim language:

“displaying a menu listing a plurality of potential responses on the display of the communication device...displaying at least one additional menu on the display of the communication device upon selection of a response from a currently displayed menu, which together with the original menu form a hierarchy of menus used to construct a complete statement when selected responses from each menu displayed are played back in the sequence they were selected...upon selection of two or more responses used to construct said complete statement ...accessing pre-recorded voice snippets corresponding to the selected responses, and transmitting a playback of the accessed voice snippets to the remote party over the communication link” (as exemplified by Claim 1);

“display a menu listing a plurality of potential responses on the display of the communication device...display at least one additional menu on the display of the communication device upon selection of a response from a currently displayed menu, which together with the original menu form a hierarchy of menus used to construct a complete statement when selected responses from each menu displayed are played back in the sequence they were selected...upon selection of two or more responses used to construct said complete statement ...access pre-recorded voice snippets corresponding to the selected responses, and transmit a playback of the accessed voice snippets to the remote party over the communication link” (as exemplified by Claim 29); and

"displaying a menu listing a plurality of potential responses on the display of the communication device...displaying at least one additional menu on the display of the communication device upon selection of a response from a currently displayed menu, which together with the original menu form a hierarchy of menus used to construct a complete statement when selected responses from each menu displayed are played back in the sequence they were selected...upon selection of two or more responses used to construct said complete statement...accessing a pre-recorded voice snippet or snippets corresponding to the selected response or responses, and transmitting a playback of the accessed voice snippet or snippets to the remote party over the communication link" (as exemplified by Claim 38);

In regard to Claim 41, this claim has been cancelled to further the prosecution of the subject application and expedite its allowance.

#### **4. Summary**

In summary, it is believed the claims are in condition for allowance. As such, reconsideration of remaining Claims 1-40 is respectfully requested. In addition, allowance of these claims at an early date is courteously solicited.

Respectfully submitted,



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